

SUBCHAPTER H—CLAUSES AND FORMS

PART 3552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

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AUTHORITY: 40 U.S.C. 486(c); Articles IX and XI of the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977.

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Subpart 3552.2—Texts of Provisions and Clauses

3552.209-70 Organizational Conflict of Interest Certification/Disclosure.

As prescribed in 3509.508-1, insert the following provision:

ORGANIZATIONAL CONFLICT OF INTEREST CERTIFICATION/DISCLOSURE (JAN 1990)

(a) An “organizational conflict of interest” exists when the nature of the work to be performed under a proposed Government contract may, without some restriction on future activities, (1) result in an unfair competitive advantage to the contractor, or (2) impair the contractor's objectivity in performing the contract work.

(b) The offeror certifies, to the best of its knowledge and belief, that it [] is, [] is not (check applicable block) aware of any information bearing on the existence of any potential organizational conflict of interest. If the offeror is aware of information bearing on whether a potential conflict may exist, the offeror shall provide a disclosure statement with its offer which describes all relevant information concerning any past, present, or planned interests bearing on whether it (including its chief executives and directors, or any proposed consultant or subcontractor) may have a potential organizational conflict of interest.

(c) The offeror should refer to FAR subpart 9.5 and PAR subpart 3509.5 for policies and procedures for avoiding, neutralizing, or mitigating organizational conflicts of interest.

(d) If the Contracting Officer determines that a potential conflict exists, the offeror

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shall not receive an award unless the conflict can be avoided or otherwise resolved through the inclusion of a special contract clause or other appropriate means. The terms of any special clause are subject to negotiation.

(End of provision)

3552.209-71 Organizational Conflict of Interest.

As prescribed in 3509.508-2, insert the following clause:

ORGANIZATIONAL CONFLICT OF INTEREST (JAN 1990)

(a) The Contractor warrants that, to the best of the Contractor's knowledge and belief: (1) There are no relevant facts or circumstances which could give rise to an organizational conflict of interest, as defined in provision 3552.209-70, Organizational Conflict of Interest Certification/Disclosure, of the solicitation; or (2) That the Contractor has disclosed all such relevant information.

(b) The Contractor agrees that if an actual or potential organizational conflict of interest is discovered after award, the Contractor will make a full disclosure in writing to the Contracting Officer. This disclosure shall include a description of actions which the Contractor has taken or proposes to take, after consultation with the Contracting Officer, to avoid, mitigate, or neutralize the actual or potential conflict.

(c) Remedies—The Panama Canal Commission may terminate this contract for convenience, in whole or in part, if it deems such termination necessary to avoid an organizational conflict of interest. If the Contractor was aware of a potential organizational conflict of interest prior to award or discovered an actual or potential conflict after award and did not disclose or misrepresented relevant information to the Contracting Officer, the Government may terminate the contract for default, debar the Contractor from Government contracting, or pursue such other remedies as may be permitted by law or this contract.

(d) The contractor further agrees to insert in any subcontract or consultant agreement hereunder, terms which shall conform substantially to the language of this clause, including this paragraph (d).

(End of clause)

3552.210-70 Brand Name Products or Equal.

As prescribed in 3510.011(h), insert the following provision:

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BRAND NAME PRODUCTS OR EQUAL (JAN 1990)

(As used in this provision, the term "brand name" includes identification of products by make and model.)

(a) If items called for by this (*invitation for bids/request for proposals*) have been identified in the schedule by a "brand name or equal" description, such identification is characteristic of products that will be satisfactory. (*Bids/Proposals*) offering "equal" products (including products of the brand name manufacturer other than the one described by brand name) will be considered for award if such products are clearly identified in the (*bids/proposals*) and are determined by the Government to meet fully the salient characteristics, requirements listed in the invitation.

(b) Unless the (*bidder/offeror*) clearly indicates in its (*bid/proposal*) that it is offering an "equal" product, its (*bid/proposal*) shall be considered as offering a brand name product referenced in the (*invitation for bids/request for proposals*).

(c)(1) If the (*bidder/offeror*) proposes to furnish an "equal" product, the brand name, if any, of the product to be furnished shall be inserted in the space identified in the (*bid/proposal*). The evaluation of (*bids/proposals*) and the determination as to equality of the product offered shall be the responsibility of the Government and will be based on information furnished by the (*bidder/offeror*) or identified in its (*bid/proposal*) as well as other information reasonably available to the purchasing activity. Caution to (*bidders/offerors*): the purchasing activity is not responsible for locating or securing any information which is not identified in the (*bid/proposal*) and reasonably available to the purchasing activity. Accordingly, to ensure that sufficient information is available, the (*bidder/offeror*) shall furnish as part of its (*bid/proposal*) all descriptive material (such as cuts, illustrations, drawings, or other information) necessary for the purchasing activity to (i) determine whether the product offered meets the salient characteristics requirement of the (*invitation for bids/request for proposals*), and (ii) establish exactly what the (*bidder/offeror*) proposes to furnish and what the Government would be binding itself to purchase by making an award. The information furnished may include specific references to information previously furnished or to information otherwise available to the purchasing activity.

(2) If the (*bidder/offeror*) proposes to modify a product so as to make it conform to the requirements of the (*invitation for bids/request for proposals*). It shall (i) include in its (*bid/proposal*) a clear description of such proposed modifications, and (ii) clearly mark any descriptive material to show the proposed modifications.

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(3) Modifications proposed after (*bid/proposal*) opening to make a product conform to a brand name product referenced in the (*invitation for bids/request for proposals*) will not be considered.

(End of provision)

3552.214-70 Price—Sealed Bidding.

As prescribed in 3514.201-6(a)(1), insert the following provision:

PRICE—SEALED BIDDING (JAN 1990)

Only bids stating a firm, fixed-price expressed in U.S. dollars shall be considered for award. Bids that qualify the bid price in terms of the rate of exchange between U.S. dollars and a foreign currency will be rejected as nonresponsive.

(End of provision)

3552.214-71 Additional Data To Be Submitted.

As prescribed in 3514.201-6(b)(1), insert the following provision:

ADDITIONAL DATA TO BE SUBMITTED (JAN 1990)

Prior to award of the contract, the Contracting Officer may require the apparent low bidder to furnish the following information:

(a) Evidence establishing that the bidder maintains a permanent place of business and has satisfactory and acceptable financial resources to meet obligations incident to the work.

(b) A brief description of work experience by the bidder and the location of major projects.

(c) A list of key personnel which the bidder has available for prosecution of the work to be performed, and a brief summary of such personnel's experience in work similar to that required by this contract.

(d) A complete list and description of all equipment, shops, yards, and storage facilities that the bidder now has or will have available for commencement and prosecution of the work.

(e) Evidence establishing that the bidder positively meets responsibility requirements, such as experience, which are included in the solicitation.

(End of provision)

3552.214-72 Rejection of Bids.

As prescribed in 3514.201-6(b)(2), insert the following provision:

REJECTION OF BIDS (JAN 1990)

Any bid will be rejected that is conditioned upon or proposes that the Panama Canal Commission agree to the use of a price adjustment clause calling for an upward revision of the bid price or to the use of a cost-plus-fixed-fee or comparable pricing arrangement. The right is reserved, as the interest of the Panama Canal Commission may require, to reject any and all bids and to waive any informality in the bids. A bid may be rejected if the bidder fails to furnish a guaranty and submit the data required with the bid; or if the bidder cannot show to the satisfaction of the Contracting Officer that it has the experience and owns or controls by firm option, or can procure the necessary plant to commence work within the time prescribed in the specifications and, thereafter, to prosecute and complete the work at the rate or time specified; or if the bidder cannot show that he is not already obligated to perform other work contemplated in this Solicitation. Any unbalanced bid which, in the opinion of the Contracting Officer, jeopardizes the interests of the Panama Canal Commission will be subject to rejection for that reason.

(End of provision)

3552.214-73 Caution—Sealed Bidding.

As prescribed in 3514.201-6(a)(2), insert the following provision:

CAUTION—SEALED BIDDING (JAN 1990)

Bidders are cautioned that any condition, qualification, provision, or comment in their bid, or in a letter transmitting their bid, which in any way modifies, takes exception to, or is inconsistent with the specifications, requirements, or any of the terms, conditions, or provisions of this solicitation, may require the rejection of their bid as nonresponsive.

(End of provision)

3552.214-74 All or None Award—Sealed Bidding.

As prescribed in 3514.201-6(c), insert the following provision:

ALL OR NONE AWARD—SEALED BIDDING (JAN 1990)

Notwithstanding paragraph (c) of provision 52.214-10, Contract Award—Sealed Bidding, award will be made on an “all or none” basis to one bidder for all items, in the quantities and at the unit prices specified for each item. Consequently, for the purpose of determining the most advantageous bid in accordance with paragraph (a) of provision 52.214-10, the word “price” as used therein shall be

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construed to mean the bidder's aggregate price for all items. Any bid which fails to quote on all items, in the quantities specified for each item, shall be rejected as non-responsive.

(End of provision)

3552.214-75 All or None Award—Sealed Bidding—Construction.

As prescribed in 3514.201-6(d)(1), insert the following provision:

ALL OR NONE AWARD—SEALED BIDDING—CONSTRUCTION (JAN 1990)

Regarding paragraph (c) of provision 52.214-19, Contract Award—Sealed Bidding—Construction, award will be made on an “all or none” basis to one bidder for all items. Consequently, for the purpose of determining the most advantageous bid in accordance with paragraph (a) of provision 52.214-19, the word “price” as used therein shall be construed to mean the bidder's aggregate price for all items. As indicated in paragraph (c) of provision 52.214-18, Preparation of Bids—Construction, failure to bid on all items will disqualify the bid.

(End of provision)

Alternate I (Jan 1990) If the construction work is not estimated to exceed \$10,000, substitute the following text in place of the basic text:

A contract award will be made on an “all or none” basis to one bidder for all items at the prices specified for each item. The award will be made, without discussions, to the overall low, responsible bidder whose bid, conforming to the solicitation, will be the most advantageous to the Government considering only the bidder's aggregate price for all items and the price-related factors, if any, specified elsewhere in the solicitation. Consequently, bidders are required to bid on all items. Failure to do so will disqualify the bid.

Alternate II (Jan 1990) If the contracting officer determines that (a) the contract work, regardless of its estimated value, will be awarded to one bidder for all the work, and (b) bidding on all items will not be required, substitute the following text in place of the basic text:

A contract award will be made on an “all or none” basis to one bidder for all the contract work. The award will be made, without discussions, to the overall low, responsible bidder whose bid, conforming to the solicitation, will be the most advantageous to the Government considering only the bidder's

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aggregate price for all items and the price-related factors, if any, specified elsewhere in the solicitation.

3552.215-70 Price.

As prescribed in 3515.407(a)(1), insert the following provision:

PRICE (JAN 1990)

Only offers stating a firm-fixed-price expressed in U.S. dollars shall be considered for award. Offers that qualify the offer price in terms of the rate of exchange between U.S. dollars and a foreign currency will be rejected as nonresponsive.

(End of provision)

3552.215-71 Caution.

As prescribed in 3515.407(a)(2), insert the following provision:

CAUTION (JAN 1990)

Offerors are cautioned that any condition, qualification, provision, or comment in their offer, or in a letter transmitting their offer, which in any way modifies, takes exception to, or is inconsistent with the specifications, requirements, or any of the terms, conditions, or provisions of this solicitation, may require the rejection of their offer as non-responsive.

(End of provision)

3552.215-72 All or None Award.

As prescribed in 3515.407(b), insert the following provision:

ALL OR NONE AWARD (JAN 1990)

Notwithstanding paragraph (d) of provision 52.215-16, Contract Award, a contract award will be made on an “all or none” basis to one offeror for all items, in the quantities and at the unit prices specified for each item. Consequently, for the purpose of determining the most advantageous offer in accordance with paragraph (a) of provision 52.215-16, the words “cost or price” as used therein shall be construed to mean the offeror's aggregate cost or price for all items. Therefore, offerors are cautioned to quote on all items, in the quantities specified for each item. Failure to do so will, in effect, eliminate the offeror from consideration for contract award in the event a contract is to be awarded on the basis of initial offers received without discussions, pursuant to paragraph (c) of provision 52.215-16.

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(End of provision)

3552.225-70 Language.

As prescribed in 3525.801-76(a), Language, insert the following clause:

LANGUAGE (JAN 1990)

All offers, correspondence and documents required by this solicitation or contract must be submitted in the English language. In the event of inconsistency between any terms of this solicitation or contract and any translation thereof into another language, the English language meaning shall control.

(End of clause)

3552.225-71 Notice of Applicability of United States Federal Law.

As prescribed in 3525.801-76(b), insert the following clause:

NOTICE OF APPLICABILITY OF UNITED STATES
FEDERAL LAW (JAN 1990)

All matters relating to the validity, construction, interpretation, performance and enforcement of the contract shall be determined in accordance with applicable federal law of the United States of America.

(End of clause)

3552.225-72 Designated Contractors.

As prescribed in 3525.801-76(c), insert the following clause:

DESIGNATED CONTRACTORS (JAN 1990)

Article XI, "Contractors and Contractors' Personnel," of the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977, prescribes, among other things, that—

(a) Whenever contracts are awarded by the Commission to natural persons who are nationals or permanent residents of the United States or to corporations or other legal entities organized under the laws of the United States and under the effective control of such persons, such contractors shall be so designated by the United States and such designations shall be communicated to the authorities of the Republic of Panama.

(b) Designated contractors shall be subject to the laws and regulations of the Republic of Panama except with respect to the special provisions established by the above named international agreement, which enumerate such obligations and benefits as, among others:

(1) Designated contractors must, while in Panama, engage exclusively in the work for which they have been contracted by U.S. Government agencies; and,

(2) Designated contractors shall be accorded the same rights established for U.S. citizens employed by the U.S. Government in Panama pertaining to Panamanian immigration requirements, relief from the payment of certain Panamanian taxes and duties, and the use of certain facilities located on U.S. military installations in Panama.

(c) The provisions of Article XI shall be similarly applied to the subcontractors and to the employees of the contractors and subcontractors and their dependents who are nationals or residents of the United States. These employees and dependents shall not be subject to the Panamanian Social Security System.

(d) Upon withdrawal of the designation of a contractor, the Commission shall notify the authorities of the Republic of Panama.

(End of clause)

3552.225-73 Responsibility for Observance of Laws, Orders, and Regulations.

As prescribed in 3525.801-76(d), insert the following clause:

RESPONSIBILITY FOR OBSERVANCE OF LAWS,
ORDERS, AND REGULATIONS (JAN 1990)

The Contractor shall be responsible for complying with all applicable laws, regulations, standards and requirements, including traffic and vehicular laws and regulations, prescribed by the Republic of Panama for contractors performing work for the Panama Canal Commission (hereinafter referred to as the Commission). The Contractor shall similarly be responsible for complying with all laws, Executive Orders, and United States Government rules and regulations which the Commission, as an agency of the United States Government performing work in the Republic of Panama, is required to follow. The areas of legal competence have been agreed to between both countries pursuant to and in accordance with the Panama Canal Treaty of 1977, including such executive agreements and implementing legislation as may be in effect. Failure of the Contractor to familiarize himself with all laws, orders, rules, regulations or standards promulgated by either country, which are or may become applicable to the work under this contract, shall not constitute a basis for adjustments under the contract.

(End of clause)

3552.227-70 Government Rights.

As prescribed in 3527.304-3(b), insert the following clause:

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GOVERNMENT RIGHTS (JAN 1990)

The Contractor may retain the entire right, title, and interest, throughout the world, to all drawings, designs, specifications, notes, and other works developed in the performance of this contract, provided that the Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to have and to use same on any other Government design or construction, and provided that the Contractor shall execute or have executed, upon request, and shall promptly deliver to the Federal agency, all instruments necessary to establish or to confirm said license.

(End of clause)

3552.228-70 Bid Guarantee Amount.

As prescribed in 3528.101-3(a), insert the following clause:

BID GUARANTEE AMOUNT (JAN 1990)

(a) The amount of the bid guarantee required by clause 52.228-1, Bid Guarantee, shall be 20 percent of the total amount of the bid, excluding options and additives if any, or \$3,000,000, whichever is less.

(b) If the bidder elects to furnish the guarantee in the form of a bid bond, the bond shall be submitted on Standard Form 24. Corporations executing the bond as sureties must be among those appearing on the current U.S. Treasury Department Circular 570, entitled "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies", and must be acting within the limitations set forth therein. If the contract work is to be performed in Panama, corporations that appear on the Panama Canal Commission's list of locally acceptable sureties, and that act within the limitations set forth therein, may be used in lieu of those appearing on Circular 570.

(End of clause)

3552.228-71 Bonds and Insurance.

As prescribed in 3528.102-3, insert the following clause:

BONDS AND INSURANCE (JAN 1990)

The bidder who is awarded the contract shall be required to furnish performance and payment bonds, certificates of Workman's Compensation, if required, and public liability and automobile insurance as stipulated in the General Conditions. The payment by the Commission of the bond premiums to the Contractor shall not be made as increments of the individual progress payments and shall not be in addition to the contract price.

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(End of clause)

3552.228-72 Bonds.

As prescribed in 3528.102-3, insert the following clause:

BONDS (JAN 1990)

(a) Corporations executing the bond as sureties must be among those appearing either on the Panama Canal Commission's list of locally acceptable sureties or on the U.S. Treasury Department's Circular 570, and must be acting within the limitations set forth therein.

(b) *Payment Bond:* If the contract exceeds \$2,000, the Contractor shall furnish a payment bond with good and sufficient surety or sureties acceptable to the Commission for the protection of persons furnishing material or labor in connection with the performance of the work under this contract on Standard Form 25-A. The penal sum of such payment bond shall be as follows: (1) When the contract price is \$1,000,000 or less, 50 percent of the contract price; (2) when the contract price is in excess of \$1,000,000, but no more than \$5,000,000, 40 percent of the contract price; (3) or \$2,500,000 when the contract price is more than \$5,000,000.

(c) *Performance Bond:* If the contract exceeds \$2,000, the Contractor shall furnish a performance bond with good and sufficient surety or sureties acceptable to the Commission in connection with the performance of the work under this agreement on Standard Form 25. The penal sum of such performance bond shall be 100 percent of the contract price.

(d) The bonds herein shall not be dated prior to the date of the contract and shall be furnished by the Contractor to the Commission not later than 10 calendar days after award.

(End of clause)

3552.228-73 Non-U.S. Workers' Compensation Insurance.

As prescribed in 3528.309(a), insert the following clause:

NON-U.S. WORKERS' COMPENSATION INSURANCE (JAN 1990)

(a) Pursuant to a waiver granted by the Secretary of Labor, the provisions of the Defense Base Act (see clause 52.228-3) are not applicable to any public-work contract awarded by the Panama Canal Commission in the Panama Canal area with respect to non-U.S. citizen employees of Commission contractors. The waiver does not apply, however, to such employees who are:

- (1) Hired in the United States by any contractor; or
- (2) Residents of the United States.

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(b) The waiver was granted with the proviso that non-U.S. citizen employees exempted from the provisions of the Defense Base Act by virtue of the waiver will be provided workers' compensation benefits prescribed in the Panamanian Social Security System. Accordingly, the Contractor shall provide workmen's insurance coverage (Seguros de Riesgos Profesionales) as provided by the Panamanian Social Security System in accordance with Cabinet Decree No. 68 of March 31, 1970, for all non-U.S. citizen employees that are not covered by clause 52.228-3 of this contract. The Seguro de Riesgos Profesionales coverage shall be provided before the Contractor commences performance and shall be maintained until performance is completed.

(End of clause)

3552.228-74 Special Panama Insurance.

As prescribed in 3528.370, insert the following clause:

SPECIAL PANAMA INSURANCE (JAN 1990)

(a) "Designated contractors" shall, upon initiation of work or construction activities, obtain appropriate insurance to cover civil liabilities in the Republic of Panama that may arise as a result of acts or omissions done in the performance of official duty by their employees. The insurance coverage shall include coverage for the tortious conduct of their employees. Such insurance may be obtained from insurance companies licensed to engage in such business within the Republic of Panama.

(b) The Contractor shall include this clause in all subcontracts.

(End of clause)

3552.228-75 Proposal Guarantee.

As prescribed in 3528.101-3 (a) and (b), insert the following clause:

PROPOSAL GUARANTEE (JAN 1990)

(a) Failure to furnish a guarantee in the proper form and amount, by the time set for the receipt of offers, may be cause for rejection of the proposal.

(b) The offeror shall furnish a guarantee in the form of a firm commitment, such as a bid bond, postal money order, certified check, cashier's check, irrevocable letter of credit, or, under Treasury Department regulations, certain bonds or notes of the United States. The amount of this guarantee shall be 20 percent of the total amount of the proposal price, excluding options and additives if any, or \$3,000,000, whichever is less. The Contracting Officer will return guarantees, other than bid bonds, (1) to unsuccessful

offerors as soon as practicable after the completion of the evaluation process, and (2) to the successful offeror upon execution of contractual documents and bonds (including any necessary coinsurance or reinsurance agreements), as required by the proposal as accepted.

(c) If the successful offeror, upon acceptance of its bid by the Government within the period specified for acceptance, fails to execute all contractual documents or give a bond(s) as required by the solicitation within the time specified, the Contracting Officer may terminate the contract for default.

(d) Unless otherwise specified in the proposal, the offeror will (1) allow 60 days for acceptance of its proposal, and (2) give bond within 10 days after receipt of the forms by the offeror.

(e) In the event the contract is terminated for default, the Contractor is liable for any cost of acquiring the work that exceeds the amount of its proposal, and the proposal guarantee is available to offset the difference.

(f) Regarding paragraph (b) of this clause, if a bid bond is furnished, it must be submitted on Standard Form 24. Corporations executing the bond as sureties must be among those appearing on the U.S. Treasury Department's Circular 570, entitled "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies", and must be acting within the limitations set forth therein. If the contract work is to be performed in Panama, corporations that appear on the Panama Canal Commission's list of locally acceptable sureties, and that act within the limitations set forth therein, may be used in lieu of those appearing on Circular 570.

(End of clause)

3552.228-76 Performance Bond.

As prescribed in 3528.103-70(a), insert the following clause:

PERFORMANCE BOND (JAN 1990)

(a) The Contractor shall furnish a performance bond with good and sufficient surety or sureties in connection with the work under this contract on Standard Form 25, which requires that the surety or sureties must be among those appearing on the current U.S. Treasury Department Circular 570 (published in the FEDERAL REGISTER), and any amendments thereto, and must be acting within the limitations set forth therein. If the contract work is to be performed in Panama, corporations that appear on the Panama Canal Commission's list of locally acceptable sureties, and that act within the limitations set forth therein, may be used in lieu of those appearing on Circular 570. The bond is

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to be completed in accordance with the instructions on the reverse side of Standard Form 25.

(b) The penal sum of such performance bond shall be 100 percent of the contract price. The bond must not be dated prior to the date of the contract and shall be furnished by the Contractor to the Contracting Officer not later than 30 calendar days after the date of receipt by the Contractor of notice of award of the contract. As used in Standard Form 25, the term "Government" shall mean the "Panama Canal Commission".

(c) Under the terms of Standard Form 25 and this contract, the penal obligation specified in paragraph (b) of this clause shall be in effect during the life of the contract and during all warranty periods stipulated in the contract.

(End of clause)

3552.228-77 Performance and Payment Bonds.

As prescribed in 3528.103-70 (a) and (b), insert the following clause:

PERFORMANCE AND PAYMENT BONDS (JAN 1990)

(a) *General.* (1) The bonds required by paragraphs (b) and (c) of this clause are to be completed in accordance with the instructions on the reverse side of the respective bond forms. Corporations executing the bonds as sureties must be among those appearing on the current U.S. Treasury Department Circular 570 (published in the FEDERAL REGISTER), and any amendments thereto, and must be acting within the limitations set forth therein. If the contract work is to be performed in Panama, corporations that appear on the Panama Canal Commission's list of locally acceptable sureties, and that act within the limitations set forth therein, may be used in lieu of those appearing on Circular 570.

(2) The bonds must not be dated prior to the date of the contract and shall be furnished by the Contractor to the Contracting Officer not later than 30 calendar days after the date of receipt by the Contractor of notice of award of the contract.

(b) *Performance Bond.* The Contractor shall furnish a performance bond on Standard Form 25 in connection with the performance of the work under this contract. The penal sum of such bond shall be 100 percent of the contract price.

(c) *Payment Bond.* The Contractor shall furnish a payment bond on Standard Form 1416 for the protection of persons furnishing material and/or labor in the prosecution of the contract. The penal sum of such bond shall be as follows: (1) 50 percent of the contract price if such price is not more than \$1,000,000; (2) 40 percent of the contract price if such price is more than \$1,000,000 but not more

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than \$5,000,000; or (3) \$2,500,000 if the contract price is more than \$5,000,000.

(End of clause)

3552.231-70 Travel Costs.

As prescribed in 3531.205-46(b), insert the following clause:

TRAVEL COSTS (JAN 1990)

Costs incurred by the Contractor for travel and per diem in the performance of this contract that are authorized elsewhere in this contract shall be reimbursed to the Contractor in accordance with the Federal Travel Regulations, prescribed by the General Services Administration, in effect on the dates of performance of this contract.

(End of clause)

3552.232-70 Contract Payments.

As prescribed in 3532.111(a)7, insert the following clause:

CONTRACT PAYMENTS (JAN 1990)

(a) Contract payments, unless otherwise specified, will be made in United States currency, by check drawn on a local branch of a United States bank.

(b) When the Contracting Officer determines that the value of materials delivered to the work site may be taken into account in preparing the progress payment estimate, the Contractor shall:

(1) Compile the initial inventory list which shall be complete as regards to descriptions, quantities, nomenclatures, and prices, and shall be fully supported by certified invoices or other documentary evidence acceptable to the Contracting Officer. The list must be revised each month to show additions to the inventory, if any (supported by additional invoices), and deletions of material used during the month.

(2) Submit monthly, subsequent lists for the material previously covered by certified invoices showing the exact status of remaining material based on a physical inventory.

(3) Furnish inventory lists in duplicate at least five days prior to the date for submission of progress estimate for monthly payment.

(c) In approving payments for material inventories, the Contracting Officer will authorize payment of 75 percent of the cost of material as part of the monthly payments, provided, however, that:

(1) Any line item with a total value of less than \$100 will be deleted; and

(2) The total value of the inventory, exclusive of deleted line items, exceeds \$1,000.

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(End of clause)

3552.232-71 Availability of Funds.

As prescribed in 3532.705-1, insert the following clause:

AVAILABILITY OF FUNDS (JAN 1990)

The authorization of performance of work under this contract during the initial contract period and any extension period(s) is contingent upon the availability of funds to procure this service. If the contract is awarded or extended, the Panama Canal Commission's obligation beyond the end of the fiscal year (September 30) in which the award or extension is made is contingent upon the availability of funds from which payment for the contract services can be made. No legal liability on the part of the Panama Canal Commission for payment of any money beyond the end of each fiscal year (September 30) shall arise unless or until funds are made available to the Contracting Officer for performance and written notice of such availability is given to the Contractor.

(End of clause)

3552.232-72 Presentation of Statement of Release From Claims.

As prescribed in 3532.806(a), insert the following clause:

PRESENTATION OF STATEMENT OF RELEASE FROM CLAIMS (JAN 1990)

As a condition for final payment, the Contractor shall present a release of all claims against the Government arising by virtue of this contract. The release shall be applicable to all claims except those that the Contractor has specifically excepted in stated amounts from the operation of the release. A release may also be required of the assignee if the Contractor's claim to amounts payable under this contract has been assigned under the Assignment of Claims Act of 1940 (31 U.S.C. 203 and 41 U.S.C. 15). The release is due within 14 days of final acceptance.

(End of clause)

3552.232-73 Invoices.

As prescribed in 3532.111(a)(8), insert a clause substantially as follows:

INVOICES (JAN 1990)

(a) Invoices shall be submitted in an original and two copies to the office designated elsewhere in this contract.

(b) To constitute a proper invoice for supply or service (other than architect-engineer service) contracts, the invoice must include the items listed in paragraph (a)(4), subdivisions (i) through (viii) of clause 52.232-25,

Prompt Payment. The invoice must be accompanied by a copy of the packing list, showing weights and measurements (gross and net) and contents of each package, if applicable. If items are mailed, the insurance parcel post receipt or copy thereof must accompany the invoice.

(c) To constitute a proper invoice for construction contracts, the invoice must include the items listed in paragraph (a)(2), subdivisions (i) through (ix) of clause 52.232-27, Prompt Payment for Construction Contracts.

(d) To constitute a proper invoice for architect-engineer services, the invoice must include the items listed in paragraph (a)(3), subdivisions (i) through (viii) of clause 52.232-26, Prompt Payment for Fixed-Price Architect-Engineer Contracts.

(e) If this contract requires a written release from the Contractor with respect to claims, the release must accompany the invoice.

(End of clause)

3552.236-70 Mailing of Correspondence and Bids.

As prescribed in 3536.371(a)(6), insert the following provision:

MAILING OF CORRESPONDENCE AND BIDS (JAN 1990)

(a) Prospective bidders may submit inquiries concerning the specifications by writing the following:

(For local bidders)
Specifications and Estimates Branch
Engineering Division
Engineering and Construction Bureau
Balboa, Republic of Panama

(For other bidders)
Specifications and Estimates Branch
Engineering Division
Engineering and Construction Bureau
APO Miami 34011-5000

(b) Bids to be mailed shall be addressed as follows:

(For local bidders)
Contracting Officer
Engineering and Construction Bureau
Panama Canal Commission
Balboa, Republic of Panama

(For other bidders)
Contracting Officer
Engineering and Construction Bureau
Panama Canal Commission
APO Miami 34011-5000

(End of provision)

3552.236-71 Additive Items.

As prescribed in 3536.371(a)(7), insert the following provision:

ADDITIVE ITEMS (JAN 1990)

(a) The low bidder for purposes of award shall be the conforming responsive bidder offering the lowest total price for the base bid item plus the largest number of additive bid items that can be awarded in the numerical order of priority listed in the schedule within the funds determined by the Contracting Officer to be available on the date of bid opening.

(b) For example, when the amount of available funds is \$100,000, and a bidder's base bid and bid for successive additives are \$85,000, \$10,000, \$8,000, \$6,000, and \$4,000, respectively, the total amount of this bid for purposes of award would be \$95,000 for the base bid plus the first additive, with the second, third and fourth additives being omitted because the second additive (\$8,000) would cause the total bid to exceed \$100,000. If, for more than one bidder, the lowest total price for the base bid item plus the largest number of additive bid items that can be awarded are equal, then the low bidder for purposes of award shall be the one submitting the lowest price for the base bid item.

(c) After the low bidder has been determined, the Contracting Officer shall be free to award the contract for the base bid item and any quantity of the additive bid items, but only in the numerical order of priority listed in the schedule, and provided that the total price is within the amount of funds available on the date of award and that the award does not exceed the price offered by any other conforming responsive bidder for the same bid items.

(d) The Contracting Officer may reject a bid as nonresponsive if it is materially unbalanced as to prices for any of the different bid items. A bid is unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated for other work.

(End of provision)

Alternate I (Jan 1990) If the additives may be awarded with the base bid item in any combination, substitute the following text in place of the basic text:

(a) The low bidder for purposes of award shall be the conforming responsive bidder offering the lowest total price for the base bid item plus, in the numerical order of priority listed in the schedule, the largest number of additive bid items that can be awarded within the funds determined by the Contracting Officer to be available on the date of bid opening.

(b) If, for all bidders, inclusion of the next additive bid item in the listed order of priority would make the award exceed such available funds, it shall be omitted and the next subsequent additive bid item or items shall be included if the prices on one or more

bids allow award thereon within the funds available. For example, when the amount of available funds is \$100,000, and a bidder's base bid and bid for successive additives are \$85,000, \$10,000, \$8,000, \$6,000, and \$4,000, respectively, the total amount of this bid item for purposes of award would be \$99,000 for the base bid plus the first (\$10,000) and fourth (\$4,000) additives. All bids shall be evaluated and the low bidder determined on the basis of the same additive bid items, as above provided. If, for more than one bidder, the lowest total price for the base bid item plus the largest number of additive bid items that can be awarded are equal, then the low bidder for purposes of award shall be the one submitting the lowest price for the base bid item.

(c) After the low bidder has been determined, the Contracting Officer shall be free to award the contract for the base bid item and any quantity and combination of the additive bid items regardless of their numerical order of priority listed in the schedule, provided that the total price is within the amount of funds available on the date of award and that the award does not exceed the price offered by any other conforming responsive bidder for the same bid items.

(d) The Contracting Officer may reject a bid as nonresponsive if it is materially unbalanced as to prices for any of the different bid items. A bid is unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated for other work.

3552.236-72 Cost Limitation.

As prescribed in 3536.371(a)(9), insert the following provision:

COST LIMITATION (JAN 1990)

A bid which does not contain separate bid prices for the items identified as subject to a cost limitation may be considered non-responsive. By signing its bid, the bidder certifies that each price bid on items subject to a cost limitation includes an appropriate apportionment of all applicable estimated costs, direct and indirect, as well as overhead and profit. Bids may be rejected which (1) have been materially unbalanced for the purpose of bringing affected items within cost limitations, or (2) exceed the cost limitations unless such limitations have been waived by the Commission's Procurement Executive prior to award.

(End of provision)

3552.236-73 Scope of Work.

As prescribed in 3536.570(k), insert the following clause:

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SCOPE OF WORK (JAN 1990)

The Contractor shall furnish all plant, materials, equipment, supplies, labor and transportation, including fuel, power, water (except any materials, equipment, utility or service, if any, specified herein to be furnished by the Commission), as required to accomplish all work under the contract, in strict accordance with the specifications, schedules, and drawings, all of which are made a part hereof, and including such detail drawings as may be furnished by the Contracting Officer from time to time during the prosecution of the work in explanation of said drawings.

(End of clause)

3552.236-74 Work Sites, Yards, Shops, and Offices.

As prescribed in 3536.570(l), insert the following clause:

WORK SITES, YARDS, SHOWS, AND OFFICES (JAN 1990)

(a) The term "work site" will embrace all areas wherein operations are conducted by the Contractor in connection with the contract, including Commission work areas, plant, shops, yards, offices, camps and other facilities. The Contractor may be permitted to use areas within the Canal Operating Area for storage-of-work purposes on a temporary basis.

(b) Prior to commencement of work, the Contractor shall, upon request, submit for the approval of the Contracting Officer, prints in quadruplicate, showing the locations of its major plant, offices, buildings, shops, storage yards, and other construction appurtenances which it proposes to construct. The Contractor shall remove any structure which it may construct in Canal Operating Areas, and restore the work site to its original condition after completion of the work.

(c) If, at any time during the progress of the work, areas which have been allocated to the Contractor are not being used by the Contractor or are not essential to the future execution of the work, as determined by the Contracting Officer, the Contractor shall, when so directed, promptly clean up and vacate such areas at no expense to the Commission. The Contractor shall keep the buildings and grounds in use by the contractor at the work site in an orderly and sanitary condition, subject to the approval of the Contracting Officer.

(d) Only equipment and materials required or used in connection with the work under the contract may be stored in Canal Operating Areas. Upon completion of the contract, and before final payment is made, the

Contractor shall remove all equipment and materials from such areas.

(End of clause)

3552.236-75 Work Time Limitations.

As prescribed in 3536.570(m), insert the following clause:

WORK TIME LIMITATIONS (JAN 1990)

No work shall be done on Sundays or on days treated as a holiday for employees of United States Government agencies in the Republic of Panama, unless authorized or directed by the Contracting Officer. Requests by the Contractor to work on such days must be made in writing at least three days in advance.

(End of clause)

3552.236-76 Accident Prevention.

As prescribed in 3536.570(n), insert the following clause:

ACCIDENT PREVENTION (JAN 1990)

(a) In performing this contract, the Contractor shall provide for protecting the lives and health of employees and other persons; preventing damage to property, materials, supplies and equipment; and avoiding work interruptions. For these purposes, the Contractor shall—

(1) Provide appropriate safety barricades, signs, and signal lights;

(2) Comply with the standards issued by the Secretary of Labor at 29 CFR part 1926 and 29 CFR part 1910; and

(3) Ensure that any additional measures the Contracting Officer determines to be reasonably necessary for this purpose are taken.

(b) The Contractor shall maintain an accurate record of exposure data on all accidents incident to work performed under this contract resulting in death, traumatic injury, occupational disease, or damage to property, materials, supplies, or equipment. The Contractor shall report this data in the manner prescribed by the Contracting Officer.

(c) The Contracting Officer shall notify the Contractor of any noncompliance with these requirements and of the corrective action required. This notice, when delivered to the Contractor or the Contractor's representative at the site of the work, shall be deemed sufficient notice of the noncompliance and corrective action required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to take corrective action promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Contractor shall not base any claim or request for equitable adjustment for

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additional time or money on any stop order issued under these circumstances.

(d) The Contractor shall call to the attention of the Contracting Officer or his representative any unsafe condition which is not within the power of the Contractor to correct but which could be corrected by others.

(e) The Contractor shall, when performing work of an electrical nature, or when working in close proximity to electrical equipment or circuits, observe the following:

(1) Be responsible for determining that the facility on which his men are to work is de-energized, isolated, and identified with accepted tag out/lock out procedures. The Commission will de-energize or isolate the cable, conductor, bus, circuit breaker, or line on which the Contractor desires to work. The Commission will also re-energize the cable, conductor, bus, circuit breaker, or line upon which the Contractor has completed work and which he certifies is ready for service.

(2) When performing work, such as painting, roofing or modifying buildings, in close proximity to electric wires, work shall be scheduled in such a manner that these wires shall be de-energized during the period men are working around them. Arrangements shall be made with the Contracting Officer's representative for de-energizing such service wires and, unless otherwise specified, work requests shall be furnished by the Contractor to the Commission's Electrical Division to cover such work.

(3) Painting, alterations, and additions to Commission facilities frequently require work to be performed in close proximity to electrical equipment and circuits within buildings. When such work, in the opinion of the Contracting Officer, requires the de-energization of circuits, arrangement for de-energizing services will be made by the Contracting Officer with the agency involved.

(4) De-energization of circuits required in paragraphs (e)(2) and (3) of this clause shall be scheduled in such a manner that prolonged service interruptions shall be avoided.

(f) In addition to the above, the Contractor shall:

(1) Submit, within 30 calendar days after date of award, a written outline of his proposed safety program for the contract. The safety program shall include frequent and appropriate safety training sessions for employees as a regular and integral part of the contract activities.

(2) Submit for approval a list of the personal protective equipment, by type and manufacturer, to be used by employees in hazardous occupations.

(3) Confer with representatives of the Contracting Officer to discuss and develop mutual understandings relative to administration of the overall safety program.

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(g) The Contractor shall be responsible for its subcontractors' compliance with this clause.

(End of clause)

[55 FR 7664, Mar. 2, 1990; 55 FR 38331, Sept. 18, 1990]

3552.236-77 Working in Confined Spaces.

As prescribed in 3536.570(o), insert the following clause:

WORKING IN CONFINED SPACES (JAN 1990)

The Contractor shall comply with the Commission's policy regarding work to be performed in confined or enclosed spaces. This policy is set forth in a pamphlet entitled "Panama Canal Commission Confined Spaces Policy", which will be made available to the Contractor, or a prospective contractor, upon request to the Contracting Officer or his representative.

(End of clause)

3552.236-78 Safety Sign.

As prescribed in 3536.570(p), insert the following clause:

SAFETY SIGN (JAN 1990)

The Contractor shall construct a safety sign at the work site at a location directed by the Contracting Officer. The sign shall be 6 feet by 4 feet in size and shall conform to the requirements of the sketch attached at the end of these General Conditions. The sign shall be erected as soon as possible, but not later than 10 days after work is initiated at the work site. No separate payment will be made for erecting and maintaining the safety sign.

(End of clause)

3552.236-79 Protection of Material and Work.

As prescribed in 3536.570(q), insert the following clause:

PROTECTION OF MATERIAL AND WORK (JAN 1990)

The Contractor shall protect and preserve all material, supplies and equipment of every description (including property which may be furnished or owned by the Commission) and all work performed. All reasonable requests of the Contracting Officer to enclose or specially protect such property shall be complied with. If, as determined by the Contracting Officer, material, equipment, supplies, and work performed are not adequately protected by the Contractor, such property

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may be protected by the Commission, and the cost thereof may be charged to the Contractor or deducted from any payments due the Contractor.

(End of clause)

3552.236-80 Toilet Facilities.

As prescribed in 3536.570(r), insert the following clause:

TOILET FACILITIES (JAN 1990)

Unless otherwise noted, the Contractor shall provide and maintain adequate toilet facilities at the work site for the use of all personnel engaged in the work under the contract. The number, types and locations of such toilet facilities shall be approved by the Contracting Officer. These facilities, where connection to the sanitary sewer system is possible, will be connected and disconnected to the sewer system by the Commission at the expense of the Contractor. The toilet facilities shall be maintained by the Contractor in a clean and sanitary condition. Upon completion of the work, all toilet facilities shall be removed by the Contractor.

(End of clause)

3552.236-81 Drinking Water.

As prescribed in 3536.570(s), insert the following clause:

DRINKING WATER (JAN 1990)

Unless otherwise noted, the Contractor shall provide suitable drinking water and sanitary dispensing facilities for the Contractor's employees.

(End of clause)

3552.236-82 Contract Bid Breakdown.

As prescribed in 3536.570(t), insert the following clause:

CONTRACT BID BREAKDOWN (JAN 1990)

The Contractor shall, within 10 days after receipt of the Notice to Proceed, or on receipt of request, submit for approval a breakdown of its bid in a form to be outlined by the Contracting Officer. Supplementary bid breakdowns of all or part of the bid shall be furnished if requested by the Contracting Officer. Payments to the Contractor shall be based upon the information presented in the approved bid breakdown.

(End of clause)

3552.236-83 Descriptive Data and Correspondence.

As prescribed in 3536.570(u), insert the following clause:

DESCRIPTIVE DATA AND CORRESPONDENCE (JAN 1990)

(a) All catalogs, operating instructions, descriptive literature, references, specifications, drawings and notes relevant to the equipment furnished under the specifications, and correspondence shall be in the English language. All drawings shall be prepared in accordance with American Standard Drafting Room Practice as approved by the American National Standard Institute (ANSI) standards and in accordance with the following:

(1) All dimensions shall be given in feet and inches.

(2) All weights shall be avoirdupois scales.

(3) All volume measurements shall be in cubic feet, cubic inches or U.S. gallons (231 cu. in/gal).

(4) All heat quantities shall be in British thermal units (Btu's).

(5) All instruments shall read in units of the English system, except gallons shall be U.S. gallons as noted in paragraph (a)(3) of this clause.

(b) When required by the various sections of these specifications or when requested by the Contracting Officer, seven (7) copies (unless otherwise specified) of the following items shall be submitted by the Contractor to the Contracting Officer for approval.

(1) *Material Lists:* Before any materials, fixtures or equipment are purchased, the Contractor shall submit a complete list of materials, fixtures and equipment to be incorporated in the work, together with the names and addresses of the manufacturers and their catalog numbers and trade names. A separate complete list shall be furnished for the equipment called for under each section of the specifications. No consideration will be given to partial lists submitted from time to time.

(2) *Descriptive Data:* In order to establish quality or suitability of materials, fixtures and equipment, the Contractor shall furnish detailed information and descriptive data for the various items. Approval of items will be based on manufacturer's published ratings. Any items which are not in accordance with the specifications will be rejected. The product of any reputable manufacturer regularly engaged in the commercial production of specified equipment will not be excluded on the basis of minor differences, provided all essential requirements of this specification relative to materials, capacity, and performance are met.

(3) *Samples:* (i) The Contractor shall submit all samples within a reasonable time before use to permit inspection and testing. Samples of materials subject to laboratory tests require, generally, a minimum of 20 days for tests after receipt of sample by the Contracting Officer. However, considerably more

time may be required depending on the nature of the tests and the ability of the laboratory to take care of current testing requirements.

(ii) Samples of the sizes and numbers required by the Contracting Officer or specified in the contract shall be submitted (except when this requirement is waived by the Contracting Officer) with label on each, giving contract number, specification paragraph, name and materials, trade name, name of manufacturer, place of origin, name and location of building on which to be used, and name of Contractor submitting same.

(iii) Samples shall be so packed as to ensure delivery at destination in good condition and with all transportation charges prepaid by sender.

(iv) Samples of materials not subject to destructive tests, when approved, will be kept on file in the office of the Contracting Officer until the completion of the work, except samples of hardware or other items approved by the Contracting Officer, which may be suitably marked for identification and installed in the work. If the Contractor desires an approved sample for the Contractor's own file or for a manufacturer, the Contractor shall submit sufficient additional samples to permit the desired distribution. Samples approved or rejected will be returned to the Contractor only at the Contractor's request and expense.

(v) Samples selected will be tested in accordance with the requirements of the applicable material specifications. If a sample fails to meet specification requirements, the cost of testing shall be at the expense of the Contractor. Failure of samples to pass specified requirements will be sufficient cause for refusal to consider for this work any further samples from the manufacturer whose materials have failed to pass the required tests.

(c) *Submittals:* Each submittal shall be accompanied by the required number of Panama Canal Form 3062, Submittal Data For Approval, fully executed and certified by the Contractor. When possible, a single transmittal shall be used for all work of a section of the specifications, but in no instance shall a transmittal include work of more than one section. Each copy of each item submitted for approval shall also be properly identified as to the subject matter indicated thereon, the item of equipment or material to which it pertains, and the contract number under which it is submitted. Each point of difference between the proposed equipment or material and the specified equipment or material shall be clearly indicated on the submittal. The submittals shall be complete and shall be checked by both the materials or equipment supplier and the Contractor, and shall contain all required and necessary detailed information. Fabrication of the equipment and construction where involved shall

not start until the submittals have been approved.

(d) If approved by the Contracting Officer, each copy of the submittal will be identified as having received such approval by being stamped either "Approved" or "Approved as Noted", and one set will be returned to the Contractor. Such approved submittals need not be resubmitted. If, however, the set returned to the Contractor is stamped "Disapproved", such submittal shall be resubmitted as expeditiously as possible. If the Contractor desires to have more than one copy returned for the Contractor's use, the Contractor must increase the number of copies submitted accordingly and must so indicate on the transmittal form.

(e) The approval of submittals by the Contracting Officer shall not be construed as a complete check, but will indicate only that, in general, the materials, equipment, system, arrangement, detailing and method of construction are satisfactory. Approval will not relieve the Contractor of the responsibility for any error or omission which may exist, and the Contractor shall be responsible for the dimensions and design of adequate connections, details, satisfactory construction, installation and operation of all work in accordance with the contract provisions. Approval shall be subject to final, in-place inspection of the work.

(End of clause)

3552.236-84 Instruction Books.

As prescribed in 3536.570(u), insert the following clause:

INSTRUCTION BOOKS (JAN 1990)

The Contractor shall deliver to the Contracting Officer nine (9) copies (unless otherwise specified) of all instruction books as called for under the various sections of the Technical Conditions. The instruction books shall be submitted and approved before work can be started on installation of the equipment to which they pertain. Each copy of the instruction books shall provide legible, complete and clear instructions, descriptions and data for installation, operation, maintenance and repair of the equipment as well as replacement parts lists. Each copy of an instruction book shall be bound in separate durable covers. Method of binding shall be post type or equivalent to permit insertion of replacement pages. Ring or spiral type loose leaf binders are not acceptable. Each copy shall be properly and indelibly identified with the name of the project, the contract number, and the name and location of the equipment to which it pertains.

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(End of clause)

(End of clause)

3552.236-85 Record Drawings.

As prescribed in 3536.570(u), insert the following clause:

RECORD DRAWINGS (JAN 1990)

The Contractor shall, during the progress of the work, keep a careful and current record, on a separate set of contract drawings, of all changes and corrections from the layouts shown on the drawings. These drawings shall be available for inspection at all times at the work site indicated by the drawings. If the Contracting Officer determines that the record drawings are seriously out of date, the Contracting Officer may require the Contractor to cease physical work on the portion of the work covered by the drawings until the drawings are brought up to date. Any costs of delays resulting from such actions by the Contracting Officer shall be borne by the Contractor. Upon completion, the Contractor shall revise one set of prints of contract drawings, furnished by the Contracting Officer, showing the work as actually constructed. These drawings shall be delivered to the Contracting Officer within 14 calendar days after receipt of the "Acceptance of Work" letter. All revisions made to the contract drawings shall be shown so that they stand out against the unchanged items in the drawing.

(End of clause)

3552.236-86 Restricted Areas.

As prescribed in 3536.570(v), insert the following clause:

RESTRICTED AREAS (JAN 1990)

(a) If any of the work is located within a restricted area (such as locks areas, power stations, water purification plants, pump stations, and industrial areas), installation clearances, at no cost to the Contractor, will be required for all employees who must work in the restricted area. The Contractor shall submit to the Contracting Officer a listing of all employees to be cleared. The listing should be submitted at least 15 days before the anticipated starting date and should include the full name and cedula or identification card number of each employee and must be in alphabetical order.

(b) Employees of the Contractor must carry their cedula or identification cards at all times and produce them upon request of authorized personnel. The Contractor shall ensure that the Contractor's employees remain in the immediate area of work and do not wander indiscriminately about the restricted areas.

3552.236-87 Surplus Space.

As prescribed in 3536.570(y), insert the following clause:

SURPLUS SPACE (JAN 1990)

Surplus space in Commission buildings, facilities, or land areas may be rented by Commission contractors, or by subcontractors through and in the name of a Commission contractor, for use in support of contract performance upon a written request by the Contractor to the Contracting Officer. The request shall include specific information regarding the location desired, the number of square feet required, and the type of activities to be conducted. If the request is accepted, the space assignment will be administered under the terms of a "Letter of Authorization" (LOA). Failure by the Contractor to comply with any of the terms of the LOA, or to completely remove itself from the rented space after the Contracting Officer has advised the Contractor that the LOA is terminated, shall be construed as a violation of this contract clause and shall entitle the Contracting Officer to take whatever action is appropriate under the contract, including termination for default and the withholding of final payment.

(End of clause)

3552.243-70 Modification Proposals— Price Breakdown.

As prescribed in 3543.205 insert the following clause:

MODIFICATION PROPOSALS—PRICE BREAKDOWN (JAN 1990)

The Contractor shall furnish an itemized price breakdown, as required by the Contracting Officer, with the Contractor's proposal in connection with a contract modification. Unless otherwise directed, the breakdown shall be in sufficient detail to permit an analysis of all material, labor, equipment, subcontract and overhead costs as well as profit, and shall cover all work involved to accomplish the modification, whether deleted, added or changed. Any amount claimed for subcontracts shall be supported by a similar price breakdown. In addition, if the proposal includes a time extension, a justification therefore shall also be furnished. The proposal, together with the price breakdown and time extension justification, shall be furnished by such date as may be specified by the Contracting Officer.

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(End of clause)

3552.244-70 Subcontractors.

As prescribed in 3536.570(x), insert the following clause:

SUBCONTRACTORS (JAN 1990)

If subcontracts have been awarded for work under this contract, the Contractor shall submit to the Contracting Officer, within 30 calendar days after the date of award, a statement on the Commission's standard "Subcontractors" form setting forth the name and address of the subcontractor, a summary description of the work subcontracted and a description of subcontractor's previous experience in related work. If, at any time, the Contracting Officer determines that any subcontractor's performance is unsatisfactory, the Contracting Officer will notify the contractor accordingly, and steps will be taken immediately for cancellation of such subcontract. Subletting by subcontractors shall be subject to the same regulations. Nothing contained in this contract shall create any contractual relation between the subcontractor and the Commission. Subcontractors and their employees shall be considered to be employees of the Contractor.

(End of clause)

3552.247-70 Evaluation of Delivery Terms in Contract Awards.

As prescribed in 3547.370, insert the following provision:

EVALUATION OF DELIVERY TERMS IN CONTRACT AWARDS (JAN 1990)

(a) When competing offers are received which specify the two different allowable terms of delivery, the offers will be evaluated at the actual or constructive landed cost in the Republic of Panama in accordance with the procedures stated below. In this connection, and for evaluation purposes only, the point of delivery will be the Port of Balboa, Panama or the Port of Cristobal, Panama for all offerors. Therefore, offerors quoting on an f.o.b. destination New Orleans basis shall furnish the total cubic measurement for each item being offered in order to apply the following procedures:

(1) *F.o.b. Destination New Orleans*: Offers quoting delivery in the United States are required on an f.o.b. destination New Orleans, Louisiana basis since transportation from New Orleans will be by a vessel, operating pursuant to a U.S. Government contract, which will discharge at the Port of Balboa. In order to compare these offers with offers quoting c.i.f. destination Panama, the following factors will be applied:

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(i) Ocean freight, New Orleans to Balboa \$_____ (*Contracting Officer insert appropriate amount*) per measurement ton of 40 cubic feet (MTON). This rate includes stevedoring and handling fees.

(ii) A self-insured loss factor of one percent of the dollar value of the offer price.

(iii) If the delivery port specified in the Commission solicitation is Cristobal, transportation from Balboa to Cristobal will be calculated at the rate of \$_____ (*Contracting Officer insert appropriate amount*) per MTON.

(2) *C.i.f. Destination Panama*: Foreign offerors proposing to ship from foreign countries, U.S. offerors preferring to ship directly to Panama, and Panamanian offerors proposing to ship from stock within the Republic of Panama, are required to ship on a c.i.f. Balboa, Panama or Cristobal, Panama basis, as applicable.

(b) Failure to furnish the total cubic measurements of the individual items could result in the rejection of the offer. Moreover, if actual total cubic measurements vary from the information furnished and the award was made to the Contractor on the constructive cost based on the erroneous information, the Contractor will be charged for the difference between the actual cost and the price of the next low responsive offeror.

(End of provision)

PART 3553—FORMS

Sec.

3553.000 Scope of part.

Subpart 3553.1—General

3553.107 Obtaining forms.

Subpart 3553.2—Prescription of Forms

3553.200 Scope of subpart.

3553.213 Small purchase and other simplified purchase procedures (Forms 1010, 1820, 1821, 1822, 2008, 3083, 3163, 3163-MTD, 7071, 7074).

3553.215 Contracting by negotiation (Form 6122).

3553.236 Construction and architect-engineer contracts (Form 3062).

Subpart 3553.3—Illustration of Forms

3553.300 Scope of subpart.

AUTHORITY: 40 U.S.C. 486(c).

SOURCE: 55 FR 7673, Mar. 2, 1990, unless otherwise noted.